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1 **A. The ALJ failed to make a proper adverse credibility determination**  
 2 **(Disputed Issue Two).**

3 Disputed Issue Two is directed to the ALJ's adverse credibility determination  
 4 with respect to plaintiff's subjective symptom testimony. (See Jt Stip at 20-31.)

5 An ALJ's assessment of pain severity and claimant credibility is entitled to  
 6 "great weight." Weetman v. Sullivan, 877 F.2d 20, 22 (9th Cir. 1989); Nyman v.  
 7 Heckler, 779 F.2d 528, 531 (9th Cir. 1986). Under the "Cotton test," where the  
 8 claimant has produced objective medical evidence of an impairment which could  
 9 reasonably be expected to produce some degree of pain and/or other symptoms, and  
 10 the record is devoid of any affirmative evidence of malingering, the ALJ may reject  
 11 the claimant's testimony regarding the severity of the claimant's pain and/or other  
 12 symptoms only if the ALJ makes specific findings stating clear and convincing  
 13 reasons for doing so. See Cotton v. Bowen, 799 F.2d 1403, 1407 (9th Cir. 1986);  
 14 Smolen v. Chater, 80 F.3d 1273, 1281 (9th Cir. 1996); Dodrill v. Shalala, 12 F.3d  
 15 915, 918 (9th Cir. 1993); Bunnell v. Sullivan, 947 F.2d 341, 343 (9th Cir. 1991) (en  
 16 banc). Here, since the Commissioner has not argued that there was evidence of  
 17 malingering or that a lesser standard consequently should apply, the Court will apply  
 18 the "clear and convincing" standard to the ALJ's adverse credibility determination.  
 19 See Burrell v. Colvin, - F.3d -, 2014 WL 7398892, at \*2 and n.1 (9th Cir. Dec. 31,  
 20 2014) (applying "clear and convincing" standard where the government did not argue  
 21 that a lesser standard should apply based on evidence of malingering); see also  
 22 Ghanim v. Colvin, 763 F.3d 1154, 1163 n.9 (9th Cir. 2014) (same).

23 Here, plaintiff testified that he cannot work primarily because of pain in his  
 24 lower back, which he has experienced since his back surgery in 2000. (See 1 AR 54;  
 25 see also 2 AR 1117-18.) Plaintiff testified that on account of his condition, he is  
 26 "mostly bedridden," cannot walk straight, can stand for 5-15 minutes at a time, and  
 27 can lift 25-30 pounds. (See 1 AR 59, 60, 68.) Plaintiff also testified that he has a  
 28 driver's license without any restrictions. (See 1 AR 53.) Plaintiff also testified that

1 on typical days, he can fix his own meals, take care of his personal hygiene, fix  
2 things, water the lawn, wash his own dishes, do laundry, vacuum at a slower-than-  
3 usual pace, and watch television. (See 1 AR 56-59.) In addition to testifying at the  
4 administrative hearing, plaintiff completed an Adult Function Report in which he  
5 stated that he can handle his own money. (See 1 AR 211-12.)

6 The ALJ determined that although plaintiff's medically determinable  
7 impairments could reasonably be expected to cause the alleged symptoms, plaintiff's  
8 statements concerning the intensity, persistence, and limiting effects of these  
9 symptoms were not credible to the extent they were inconsistent with the ALJ's RFC  
10 assessment. (See 1 AR 36.) In support of this adverse credibility determination, the  
11 ALJ proffered what appear to be six reasons. (See 1 AR 35-36.) The Court finds that  
12 the first five reasons were not legally sufficient and that, while the sixth reason  
13 arguably was legally sufficient, the ALJ's adverse credibility determination on the  
14 whole was not supported by substantial evidence.

15 One of the ALJ's stated reasons for his adverse credibility determination was  
16 that plaintiff's allegations were "inconsistent with the objective medical evidence,  
17 which indicates an attempt by [plaintiff] to exaggerate the severity of his symptoms,"  
18 and that plaintiff "has not generally received the type of medical treatment one would  
19 expect for a totally disabled individual." (See 1 AR 35.) However, this vague  
20 allegation is legally insufficient because the ALJ failed to identify specific evidence  
21 that undermined plaintiff's complaints by demonstrating inconsistencies with the  
22 objective medical record, an attempt to exaggerate the severity of his symptoms, or  
23 treatment that was inconsistent with disability. See Treichler v. Commissioner of  
24 Social Sec. Admin., - F.3d -, 2014 WL 7332774, at \*9 (9th Cir. Dec. 24, 2014) ("An  
25 ALJ's 'vague allegation' that a claimant's testimony is 'not consistent with the  
26 objective medical evidence,' without any 'specific findings in support' of that  
27 conclusion is insufficient for our review."); see also Parra v. Astrue, 481 F.3d 742,  
28 750 (9th Cir. 2007) ("The ALJ must provide 'clear and convincing' reasons to reject

1 a claimant's subjective testimony, by specifically identifying 'what testimony is not  
2 credible and what evidence undermines the claimant's complaints.'" (quoting Lester  
3 v. Chater, 81 F.3d 821, 834 (9th Cir. 1995)).<sup>2</sup>

4 A similar reason proffered by the ALJ for his adverse credibility determination  
5 was that plaintiff "exaggerated his limitations and alluded to various medical  
6 conditions" for which there was no objective support. It thus appeared that plaintiff  
7 "might be exaggerating his conditions and symptoms." (See 1 AR 36.) However, the  
8 ALJ failed to explain how plaintiff exaggerated his symptoms, failed to specify what  
9 unsupported medical conditions he had alleged, and failed to cite any supporting  
10 evidence for this reasoning.

11 A similar reason proffered by the ALJ for his adverse credibility determination  
12 was that plaintiff "appeared to make excuses for why he could not look for work or  
13 be hired, rather than providing medical reasons why he could not perform work."  
14 (See 1 AR 36.) However, the ALJ failed to specify what excuses plaintiff proffered  
15 in lieu of medical reasons, and failed to cite any supporting evidence.

16 Another reason proffered by the ALJ for his adverse credibility determination  
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18 <sup>2</sup> Although the Commissioner cites findings made by the ALJ in other  
19 portions of his opinion that purportedly support this part of his adverse credibility  
20 determination (see Jt Stip 25-27), the ALJ did not specifically link these findings to  
21 his adverse credibility determination. Accordingly, the Court does not consider them  
22 as part of that determination. See Burrell, 2014 WL 7398892, at \*4-\*5 (rejecting link  
23 between ALJ's findings about medical record and adverse credibility determination  
24 elsewhere in the opinion where the ALJ "never stated that he rested his adverse  
25 credibility determination on those findings" and "did not make a specific finding  
26 linking a lack of medical records to Claimant's testimony"); Gonzalez v. Sullivan,  
27 914 F.2d 1197, 1201-02 (9th Cir. 1990) (rejecting link between ALJ's finding of  
28 possibly adverse evidence and adverse credibility determination in other portion of  
decision where ALJ did not "specifically link" the evidence to his conclusion that  
claimant's excess pain testimony lacked credibility); see also Vasquez v. Astrue, 572  
F.3d 586, 592 (9th Cir. 2009) (declining to attribute ALJ's discussion of physicians'  
opinions to adverse credibility determination in other portion of ALJ's decision).

1 was that plaintiff had been prescribed Diazepam, Temazepam, Methadone, and  
2 Percocet for his impairments and had suffered no side effects. The ALJ also found  
3 that plaintiff had acknowledged that his treatment was effective in controlling his  
4 symptoms because he had testified that he received relief from back pain with  
5 medication, heat, and lying down. (See 1 AR 36; see also 1 AR 62, 64.) As an initial  
6 matter, the absence of side effects did not mean the absence of symptoms. Moreover,  
7 the record does not reflect that plaintiff acknowledged that his treatment was  
8 effective; to the contrary, plaintiff testified that despite any temporary relief he  
9 received from medication, heat, and lying down, he was still “mostly bedridden” and  
10 could not walk or stand for long periods. (See 1 AR 59, 60.)

11 Another reason proffered by the ALJ for his adverse credibility determination  
12 was that plaintiff engaged in a “somewhat normal level of daily activity” – fixing his  
13 own meals, taking care of his personal hygiene, fixing things, watering the lawn,  
14 washing his own dishes, doing laundry, walking around the block, watching  
15 television, vacuuming at a slower-than-usual pace – and had an unrestricted driver’s  
16 license and the ability to handle money. The ALJ found that these activities  
17 resembled the skills and activities necessary for obtaining and maintaining  
18 employment. (See 1 AR 35-36.) As an initial matter, the ALJ improperly relied on  
19 this evidence because the full context of plaintiff’s statements about his daily  
20 activities reflected that plaintiff performed them at a slow pace, for only short periods,  
21 and with rest and assistance (see 1 AR 56-58, 208, 210-11). See Ghanim, 763 F.3d  
22 at 1165 (ALJ improperly relied on evidence of claimant’s daily activities for adverse  
23 credibility determination where claimant stated she performed only limited activities,  
24 sometimes with help); Reddick v. Chater, 157 F.3d 715, 722-23 and n.1 (9th Cir.  
25 1998) (same where ALJ did not properly consider claimant’s statements about her  
26 daily activities in full context, which indicated claimant performed them with  
27 weakness and fatigue, requiring periodic rest). Moreover, evidence that plaintiff  
28 performed household activities on this limited basis does not convince the Court that

1 plaintiff engaged in activities that resembled those necessary for employment. See  
2 Vertigan v. Halter, 260 F.3d 1044, 1049-50 (9th Cir. 2001) (concluding that evidence  
3 that claimant did certain chores that did not consume a substantial part of the day did  
4 not detract from her credibility); Cooper v. Bowen, 815 F.2d 557, 561 (9th Cir. 1987)  
5 (claimant's ability to assist with some household chores was not determinative of  
6 disability).

7 Another reason proffered by the ALJ for his adverse credibility determination  
8 was that the record reflected that plaintiff had engaged in work activity during the  
9 period between his alleged disability onset date of June 15, 2009 and approximately  
10 October 2009. (See 1 AR 35; see also 1 AR 537.) In general, such evidence could  
11 constitute a legally sufficient reason on which an ALJ properly could rely in support  
12 of an adverse credibility determination. See Bray v. Commissioner of Social Security  
13 Admin., 554 F.3d 1219, 1227 (9th Cir. 2009) (claimant's part-time work as personal  
14 caregiver belied claimant's claim of debilitating respiratory illness). The Court also  
15 notes that the record corroborates the ALJ's finding that plaintiff worked for a few  
16 months after his alleged disability onset date. Nonetheless, this rationale is less  
17 convincing here because the work period was brief and a treating physician noted that  
18 plaintiff had stopped working because of "poorly controlled pain." (See 1 AR 66,  
19 537.) Moreover, even if this reason arguably was valid, it is still a weak reason based  
20 on this record and therefore fails to satisfy the ALJ's duty to provide reasons under  
21 the "clear and convincing" standard. See Burrell, 2014 WL 7398892, at \*5 (reason  
22 that arguably was legally sufficient basis for adverse credibility determination but  
23 nonetheless was "weak on this record" was insufficient to satisfy ALJ's duty to  
24 provide "specific, clear and convincing" reasons) (citing Lingenfelter v. Astrue, 504  
25 F.3d 1028, 1035 (9th Cir. 2007) (ALJ's conclusion cannot be affirmed "simply by  
26 isolating a specific quantum of supporting evidence"))).

27 In sum, the Court finds that, since the ALJ's initial five reasons were legally  
28 insufficient and his sixth reason was only weakly supported, the ALJ erred in

1 discrediting plaintiff's subjective symptom testimony. See Burrell, 2014 WL  
2 7398892, at \*5 (ALJ erred in discrediting claimant's testimony where initial two  
3 reasons were not supported by substantial evidence and final reason was weak on the  
4 record).

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6 **B. The ALJ failed to properly consider the treating physician's opinions**  
7 **(Disputed Issue One).**

8 Disputed Issue One is directed to the ALJ's consideration of the opinions of Dr.  
9 Helm, plaintiff's treating physician. (See It Stip at 5-19.)

10 The law is well established in this Circuit that a treating physician's opinions  
11 are entitled to special weight because a treating physician is employed to cure and has  
12 a greater opportunity to know and observe the patient as an individual. See  
13 McAllister v. Sullivan, 888 F.2d 599, 602 (9th Cir. 1989). "The treating physician's  
14 opinion is not, however, necessarily conclusive as to either a physical condition or the  
15 ultimate issue of disability." Magallanes v. Bowen, 881 F.2d 747, 751 (9th Cir.  
16 1989). The weight given a treating physician's opinion depends on whether it is  
17 supported by sufficient medical data and is consistent with other evidence in the  
18 record. See 20 C.F.R. §§ 404.1527(d)(2), 416.927(d)(2). If the treating physician's  
19 opinion is uncontroverted by another doctor, it may be rejected only for "clear and  
20 convincing" reasons. See Lester, 81 F.3d at 830; Baxter v. Sullivan, 923 F.3d 1391,  
21 1396 (9th Cir. 1991). Where, as here, the treating physician's opinion is  
22 controverted, it may be rejected only if the ALJ makes findings setting forth specific  
23 and legitimate reasons that are based on the substantial evidence of record. See, e.g.,  
24 Reddick, 157 F.3d at 725 ("A treating physician's opinion on disability, even if  
25 controverted, can be rejected only with specific and legitimate reasons supported by  
26 substantial evidence in the record."); Magallanes, 881 F.2d at 751; Winans v. Bowen,  
27 853 F.2d 643, 647 (9th Cir. 1987).

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1 Dr. Helm treated plaintiff for lower back pain beginning in February 2008 and  
2 issued two opinions, both of which the ALJ rejected. (See 1 AR 39, 442; 2 AR 738.)  
3 The Court finds that the ALJ failed to provide legally sufficient reasons to reject these  
4 opinions.

5  
6 1. Dr. Helm's September 2009/March 2010 opinion

7 Dr. Helm issued an opinion in September 2009 (and certified it in March 2010)  
8 for purposes of plaintiff's state disability claim. (See 2 AR 730-38.) In the opinion,  
9 Dr. Helm concluded that plaintiff was "unable to perform regular or customary work."  
10 (See 2 AR 730, 738.) The ALJ accorded "little weight" to this opinion for three  
11 reasons.

12 First, the ALJ found that Dr. Helm's opinion was "brief, conclusory, and  
13 inadequately supported by objective findings and the overall treatment records.  
14 Specifically, the ALJ noted that a CT scan of plaintiff's lumbar spine showed  
15 evidence of posterior lumbar interbody fusion but no other abnormalities. (See 1 AR  
16 39; see also 1 AR 439-40.) This reason was legally insufficient because, to the  
17 contrary, the record reflects that the CT scan, from July 2009, showed also that the  
18 soft tissue structures in and around the spine were suboptimal and that further  
19 imaging was necessary to evaluate soft tissue causes of neural impingement. (See 1  
20 AR 440.) A subsequent CT scan of plaintiff's lumbar spine, from July 2012, showed  
21 a laminectomy defect at S1, marked irregularity and sclerosis involving the endplates  
22 at S1-S2, variable degenerative changes, spondylosis, and neural foraminal  
23 narrowing. (See 2 AR 1096-97.)

24 Second, the ALJ found that plaintiff had been treated conservatively with  
25 prescription medications and that this treatment plan was effective. (See 1 AR 39.)  
26 In general, an ALJ may properly reject a treating physician's opinion that a claimant  
27 was disabled where the physician had prescribed a conservative course of treatment.  
28 See Rollins v. Massanari, 261 F.3d 853, 856 (9th Cir. 2001). Here, however, the ALJ



1 failed to explain why plaintiff's treatment was conservative and failed to adduce  
2 evidence that the treatment plan was effective. Moreover, the record reflects that  
3 plaintiff was regularly prescribed various pain medications – Diazepam (Valium),  
4 Temazepam, Methadone, Percocet, Oxycontin, Norco, Trazodone (see 1 AR 64; 2 AR  
5 731, 913) – that in the Court's view cannot properly be characterized as conservative  
6 treatment. See Kager v. Astrue, 256 Fed. Appx. 919, 923 (9th Cir. 2007) (now citable  
7 for its persuasive value per Ninth Circuit Rule 36-3) (rejecting adverse credibility  
8 determination premised on absence of significant pain therapy where claimant took  
9 prescription pain medications including Methocarbamol and the narcotic analgesics  
10 Roxicet and Valium); cf. Osenbrock v. Apfel, 240 F.3d 1157, 1166 (9th Cir. 2001)  
11 (treatment corroborating allegations of severe and unremitting pain may include a  
12 strong Codeine or Morphine basic analgesic).

13 Third, the ALJ noted that the “regular or customary work” standard used by Dr.  
14 Helm was not the same standard used by the Social Security Administration and that  
15 just because plaintiff could not return to his prior work did not mean he could not  
16 perform any other work. (See 1 AR 39.) However, the ALJ could not properly reject  
17 Dr. Helm's opinion merely because it arose out of a state disability proceeding, the  
18 opinion employed a different legal standard, and/or the opinion did not address  
19 whether plaintiff could perform any other work in the national economy. See 20  
20 C.F.R. § 404.1527(c) (“Regardless of its source, we will evaluate every medical  
21 opinion we receive.”); see generally McLeod v. Astrue, 640 F.3d 881, 886 (9th Cir.  
22 2011) (ALJ was required to consider VA rating of disability even though the VA and  
23 SSA criteria for determining disability are not identical).

## 24 25 2. Dr. Helm's March 2011 opinion

26 In another report issued in March 2011 describing plaintiff's functional  
27 abilities from his back condition, Dr. Helm opined that plaintiff's back pain would  
28 limit him to sitting for three hours in a workday and standing/walking for two hours

1 in a workday, and would cause him to be absent from work more than three times per  
2 month. (See 2 AR 909-16.) The ALJ construed these limitations as precluding  
3 plaintiff from performing substantial gainful activity, and rejected Dr. Helm's opinion  
4 as having "no probative value" for four reasons. (See 2 AR 39.)

5 First, the ALJ found that Dr. Helm's opinion was not entitled to controlling  
6 weight or any special significance because it concerned an issue (i.e., disability)  
7 reserved to the Commissioner. (See 1 AR 39.) While the Court concurs that a  
8 disability determination involves an issue reserved to the Commissioner, the ALJ still  
9 could not reject Dr. Helm's opinion without proffering legally sufficient reasons,  
10 especially because the opinion was based on objective medical evidence. See Hill v.  
11 Astrue, 698 F.3d 1153, 1160 (9th Cir. 2012) (ALJ was required to consider  
12 physician's opinion that claimant was "unlikely" to work full time because it was an  
13 assessment based on objective medical evidence); see also Reddick, 157 F.3d at 725  
14 (ALJ must provide legally sufficient reasons to reject a treating physician's opinion  
15 on the ultimate issue of disability).

16 Second, the ALJ found that Dr. Helm had apparently based his opinion "only  
17 on [plaintiff's] self-reported statements of pain and limitations rather than on the  
18 objective medical findings." (See 1 AR 39.) In general, an ALJ "may reject a  
19 treating physician's opinion if it is based 'to a large extent' on a claimant's self-  
20 reports that have been properly discounted as incredible." Tommasetti v. Astrue, 533  
21 F.3d 1035, 1041 (9th Cir. 2008) (citation omitted). Here, however, the ALJ did not  
22 properly discount plaintiff's self-reports as incredible. See Burrell, 2014 WL  
23 7399892, at \*6 (ALJ could not properly reject treating physician's assessment as  
24 reliant primarily on claimant's own subjective allegations where the ALJ failed to  
25 properly discredit claimant's testimony). Moreover, contrary to the ALJ's  
26 supposition, the record reflects that Dr. Helm's opinion was not based to a large  
27 extent on plaintiff's self-reports, but rather based primarily on objective clinical  
28 observations: Dr. Helm stated that his opinion was based on a twelve-centimeter well-

1 healed scar on the lumbar spine midline, multiple imaging studies which had shown  
2 extensive surgical changes, decreased range of motion of the lumbar spine, and  
3 positive straight leg raising (see 2 AR 909-10). See Ghanim, 763 F.3d at 1162  
4 (“[W]hen an opinion is not more heavily based on a patient’s self-reports than on  
5 clinical observations, there is no evidentiary basis for rejecting the opinion.”) (citing  
6 Ryan v. Commissioner of Social Sec., 528 F.3d 1194, 1199 (9th Cir. 2008)).

7 Third, the ALJ found that Dr. Helm’s opinion was inconsistent with his own  
8 treatment records, which had documented conservative and effective treatment with  
9 prescription medication for plaintiff’s back pain, been contradicted by a CT scan that  
10 showed no abnormalities, and failed to document any recommendation for surgery.  
11 (See 1 AR 39.) However, as noted above, (a) the ALJ failed to explain or support his  
12 conclusion that plaintiff’s treatment was conservative and effective, (b) the record  
13 indicates that plaintiff was regularly prescribed various prescription pain medications  
14 that cannot properly be characterized as conservative treatment, and (c) the CT scans  
15 showed various abnormalities. Moreover, the absence of any recommendation for  
16 surgery was not particularly probative because plaintiff did have surgery (see 2 AR  
17 1117-18) that failed to eliminate his pain and because there was no evidence before  
18 the ALJ that another surgery was an appropriate option.

19 Fourth, the ALJ found that Dr. Helm’s opinion was inconsistent with plaintiff’s  
20 admitted activities of daily living. (See 1 AR 39.) For the same reasons that the  
21 Court found that this was not a legally sufficient reason on which the ALJ could  
22 properly rely to support his adverse credibility determination, the Court finds that it  
23 also was not a legally sufficient reason to reject Dr. Helm’s opinion.

## 24 25 CONCLUSION AND ORDER

26 The law is well established that the decision whether to remand for further  
27 proceedings or simply to award benefits is within the discretion of the Court. See,  
28 e.g., Salvador v. Sullivan, 917 F.2d 13, 15 (9th Cir. 1990); McAllister v. Sullivan,

1 888 F.2d 599, 603 (9th Cir. 1989); Lewin v. Schweiker, 654 F.2d 631, 635 (9th Cir.  
 2 1981). Remand is warranted where additional administrative proceedings could  
 3 remedy defects in the decision. See, e.g., Kail v. Heckler, 722 F.2d 1496, 1497 (9th  
 4 Cir. 1984); Lewin, 654 F.2d at 635. Remand for the payment of benefits is  
 5 appropriate where no useful purpose would be served by further administrative  
 6 proceedings, Kornock v. Harris, 648 F.2d 525, 527 (9th Cir. 1980); where the record  
 7 has been fully developed, Hoffman v. Heckler, 785 F.2d 1423, 1425 (9th Cir. 1986);  
 8 or where remand would unnecessarily delay the receipt of benefits, Bilby v.  
 9 Schweiker, 762 F.2d 716, 719 (9th Cir. 1985).

10 The Court is mindful that recent Ninth Circuit cases have focused on the  
 11 appropriate remedy in cases where, as here, an ALJ improperly discredits a claimant's  
 12 testimony or a treating physician's opinions. See Treichler, 2014 WL 7332774, at \*8-  
 13 \*13; Burrell, 2014 WL 7398892, at \*6-\*7; Garrison v. Colvin, 759 F.3d 995, 1019-23  
 14 (9th Cir. 2014). In Treichler, 2014 WL 7332774, at \*7-\*8,<sup>3</sup> the Ninth Circuit noted  
 15 that the "ordinary remand rule" directs that the proper course in most cases is to  
 16 remand for further proceedings, that benefits should be awarded only in "rare  
 17 circumstances," and that district courts still have the discretion to remand for further  
 18 proceedings even when these rare circumstances are present. Here, while plaintiff  
 19 has made a cursory assertion that he is entitled to an award of benefits (see Jt Stip at  
 20 31), he has completely failed to proffer any argument for an award of benefits in light  
 21 of the foregoing authorities and made no attempt to show that this case presents the  
 22 rare circumstances that would warrant departure from the ordinary remand rule.  
 23 Accordingly, the Court has decided not to remand for an award of benefits. See  
 24 Vasquez, 572 F.3d at 597 (declining to order an immediate payment of benefits where  
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26 <sup>3</sup> In Treichler, 2014 WL 7332774, at \*17 n.4, the Ninth Circuit also noted  
 27 that the Supreme Court has not defined what rare circumstances would justify  
 28 departure from the ordinary remand rule, other than perhaps the presence of evidence  
 that remand for further proceedings would be a mere formality.

1 neither party presented any argument about the effect of the ALJ's errors, meaning  
2 that there were no facts presented that clearly indicated the proper outcome).

3 Based on its review and consideration of the entire record, the Court has  
4 concluded on balance that a remand for further administrative proceedings pursuant  
5 to sentence four of 42 U.S.C. § 405(g) is warranted here. Accordingly, IT IS  
6 HEREBY ORDERED that Judgment be entered reversing the decision of the  
7 Commissioner of Social Security and remanding this matter for further administrative  
8 proceedings.<sup>4</sup>

9  
10 DATED: January 16, 2015

  
11  
12 ROBERT N. BLOCK  
13 UNITED STATES MAGISTRATE JUDGE  
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28 <sup>4</sup> It is not the Court's intent to limit the scope of the remand.